

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 7551 of 1998

Dated: 20.06.2007

Between:

T. Surender

... Petitioner

AND

The Regional Manager,
APSRTC Warangal Region,
Warangal and another.

... Respondents

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 7551 of 1998

ORDER:-

The petitioner was initially appointed as Conductor in Andhra Pradesh State Road Transport Corporation (for short 'APSRTC') and at the relevant point of time he was working as Assistant Depot Clerk (ADC) at Kothagudem. He was placed in-charge of issuance of bus passes to the employees. On the ground that he unauthorisedly allowed a conductor by name D.R. Rao to meddle with his functioning of issuing bus passes and that there was misappropriation to a tune of Rs.1,78,500/- in issuing seasonal bus pass tickets, disciplinary proceedings were initiated against the petitioner. A charge sheet was issued on 09.12.1992 with the following two charges:

"1. For having allowed Sri D.R. Rao, E 300378, Conductor of Kothagudem depot to sold the seasonal bus pass tickets during the months of September 1992 and October 1992, who is under sick and unauthorized absence to his duties w.e.f. 21.09.1992 to till date without the knowledge of the higher authorities, which clearly speaks that you have mingled with Sri D.R. Rao, E.300378, Conductor in the misappropriation of seasonal bus pass tickets, which constitutes misconduct in terms of Reg.28(iii) of APSRTC Employees (Conduct) Regulations, 1963.

2. For having failed to collect and store the seasonal bus pass tickets while renewing them to the

passengers as per the APSRTC Operational Manual, which constitutes misconduct as per the APSRTC Employees (Conduct) Reg.28(xvii) and (xxxii) of 1963.”

An enquiry officer was appointed and after completing enquiry, he submitted his report. The enquiry officer found that both the charges leveled against the petitioner were proved. After considering the enquiry report and the explanation submitted by the petitioner, respondent No.1 vide his proceedings dated 23.03.1994 imposed the penalty of reduction of two incremental stages for a period of two years which will have effect on his future increments besides treating the period of suspension as ‘not on duty’. Feeling aggrieved by the said order, the petitioner filed an appeal before respondent No.2. Respondent No.2 after considering the entire material modified the order of punishment by reducing the punishment to withholding of the increment and reduction of pay by one increment of stage for a period of one year with effect on the future increments. The petitioner filed this writ petition aggrieved by the said order of respondent No.2 to the extent of imposition of the aforementioned penalty.

Heard Sri P.A.V. Bala Prasad, learned counsel for the petitioner and Smt. Rajini Reddy, learned counsel for respondent No.2.

A perusal of the record clearly shows that the petitioner’s plea that on his pleading that he was not acquainted with the work of issue of passes, he was permitted by the superior authorities to take the services of Sri D.R.Rao, Conductor was rejected by the primary authority and as well as the appellate authority. However, the appellate authority took the lenient view having regard to the fact that the petitioner is not directly responsible for the

irregularities/misappropriation of the monthly seasonal bus pass tickets. The appellate authority, however, gave the finding that the petitioner cannot be absolved of allowing a conductor, who was placed under sick list, to work in the bus pass section and his failure in collecting and keeping the bus passes in safe custody cannot be overlooked. It is trite that the discretion of imposition of punishment lies with the primary authority. In appropriate cases, the appellate authority, the Labour Courts/Industrial Tribunals and the Constitutional Courts may exercise discretion to reduce the penalty if they are satisfied that the punishment imposed is too disproportionate to the proven misconduct. In a catena of judgments, the Supreme Court held that ordinarily the authority superior to the primary authority would not interfere with the quantum of punishment imposed on the employee by the primary authority.

On a careful perusal of the entire material on record, I am unable to discern any reason to interfere with the well considered order of the 2nd respondent, who, in fact, as already mentioned above, reduced the punishment imposed by the primary authority. Admittedly, the petitioner failed to prove that under any authority of the superiors a conductor, who was in sick list, was permitted to meddle with the duty which the petitioner was actually entrusted with and this resulted in misappropriation of huge amount of the corporation. In these circumstances, I do not consider it a fit case where the Court shall interfere with the discretion exercised by respondent No.2 in reducing the punishment awarded by respondent No.1.

For the aforementioned reasons, the writ petition fails and is accordingly dismissed. No costs.

Date: 20.06.2007
ES

C.V. NAGARJUNA REDDY, J